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Wednesday, March 29, 2006

VIA FACSIMILE & FIRST CLASS MAIL

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

IN RE APPLICATION OF:

Application No.:	10/656,548
Inventor:	Ronald F. Swartz
Title of Invention:	Self-Aligning Blade Angle Guide
Filing Date:	September 6, 2003
Attorney Docket No.:	05-11269-01

Sir:

Enclosed for filing with the United States Patent and Trademark Office, please find the following:

- The Fees Transmittal Form (PTOL-85B) for the payment of the Issue Fee in the amount of \$700.00. **Please charge the issue fee to this firm's Deposit Account No. 501472.**
- Comments on Statement of Reasons for Allowance.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

RICHARD A. CATALINA, JR. (45,372)

RAC/tku

Encl.

cc: Ronald Swartz (w/ encl.)

CERTIFICATE OF MAILING & FACSIMILE TRANSMISSION

I hereby certify that this correspondence with accompanying document(s) are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop ISSUE FEE P.O. Box 1450, Alexandria, VA 22313-1450, and is being facsimile transmitted to the USPTO (571) 273-2885, on this 29th of March, 2006.



TONY K. UHM (52,450)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ronald F. Swartz

Serial No.: 10/656,548

Filing Date: September 6, 2003

For: SELF-ALIGNING BLADE ANGLE GUIDE

Examiner: Jason Prone

Art Unit: 3724

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

These Comments on the Examiner's Statement of Reasons for Allowance are submitted on behalf of the applicant Ronald Swartz (the "Applicant") in response to the Examiner's Statement of Reasons for Allowance (the "Statement"), which was mailed on December 29, 2005.

In the Statement, the Examiner states that "When the user rotates the blade to sharpen the other side of the blade, the minimum angle of rotation must be at least 180 degrees."

[Page 4 of the Detailed Action]

It should be noted that the Applicant never took the position that the minimum angle of rotation *must* be at least 180 degrees. In fact, the prosecution history clearly shows that

the “free rotational movement” feature of the clamp-and-axle assembly with respect to the frame is not so limited as to just “180 degrees,” but it can be any angle, including, but not limited to, angles such as 180 degrees or 360 degrees, the result of which would enable “free rotational movement,” as specifically stated in the application. Specifically, before the Applicant amended the claims, the claims recited “rotating said clamp 180 degrees between passes” (See, *e.g.*, Claim 1 before the amendment); whereas, after the Applicant amended the claims, claims now recite “free rotational movement of the clamp-and-axle assembly through an angle of at least 180 degrees with respect to the said frame” (See, *e.g.*, Claim 3 after the amendment). This evidences that, if anything, the Applicant intended to make it very clear that the claims would not be construed so narrowly as to be limited to exactly 180 degrees. As such, the Applicant respectfully refutes the Examiner’s unilateral statement that “the minimum angle of rotation must be at least 180 degrees.”

The Applicant’s position in this regard is further supported by the telephone conversation between the Examiner, Jason Prone, and Tony K. Uhm, Esq., of the law firm of Catalina & Associates, A Professional Corporation, attorney for Applicant, which took place on December 19, 2005, wherein Mr. Prone objected to the amendment of the claim language from “180 degrees” to “at least 180 degrees,” as possibly constituting new matter. In response thereto, Mr. Uhm maintained that there is sufficient disclosure in the application as filed to support the broadened claim feature of “at least 180 degrees.” Mr. Uhm further maintained that, in view of the disclosure as contained in the application as filed, it is clear that the “at least 180 degrees” feature of the invention is to support the “free rotational movement” feature of the invention, and not to take on a meaning separately therefrom. Mr. Prone acquiesced to Mr. Uhm’s position that the claim should be allowed to be amended to “at least 180 degrees” to more clearly support the “free rotational movement” aspect of the

invention. This aspect of the telephone conversation between the Examiner and the Applicant's attorney is correctly reflected in the Statement as follows:

The specification, of the instant application, is very clear that the clamp and axel [sic] assembly is freely rotatable. Meaning the claim and axel [sic] assembly can rotate 360 degrees is clearly shown by the "rotation" arrows located on item "3C" of Figures 7, 11, and 12. Figures 11 and 12 clearly show the clamp and axel [sic] assembly rotating. The specification is very clear that the user will sharpen one side of the blade than rotate the clamp and axel [sic] assembly to sharpen the other side of the blade. [Page 4 of the Detailed Action]

Therefore, the term "at least 180 degrees" is supported by the specification and does not constitute new matter. [Page 4 of the Detailed Action]

It does not follow from the above, however, that, when the user rotates the blade to sharpen the other side of the blade, "the minimum angle of rotation *must* be at least 180 degrees." [Page 4 of the Detailed Action (emphasis added)] In fact, the question of whether the Applicant disavowed all reasonable equivalents of "at least 180 degrees" has arisen for the first time by this unilateral remark by the Examiner. As such, the Applicant hereby refutes any such implications from the Examiner's unilateral statement that "the minimum angle of rotation must be at least 180 degrees."

Lastly, the Applicant wishes to make the record clear that the Examiner's reasons for allowing Claims 3-5, 7, and 9-13, has nothing to do with the issue of whether "at least 180 degrees" would be afforded its reasonable range of equivalents. In fact, the Examiner is very clear in articulating his reasons for allowance, as follows:

None of the prior art cited discloses an apparatus that incorporates the use of an axel [sic], a clamp with a pair of jaw member [sic], a base having a hole through which the axel [sic] retains the jaw members, a means for imparting reciprocal movement to the axel [sic] whereby each jaw member pivots towards and away from the opposite jaw member, and a frame coupled to the clamp-axel [sic] assembly to enable *free rotational movement* of the clamp-axel [sic] assembly to allow the user to sharpen one side of a blade and then rotate the blade to sharpen the other side rather than rotate the entire apparatus. [Page 4 of the Detailed Action (emphasis added)]

That is, Claims 3-5, 7, and 9-13 are allowable over the cited prior art references regardless of the "at least 180 degrees" language in the claims.

In view of the above, the Applicant respectfully refutes the Examiner's unilateral statement that "the minimum angle of rotation must be at least 180 degrees" and any suggestions or implications that the Applicant disavowed any reasonable interpretations of "at least 180 degrees."

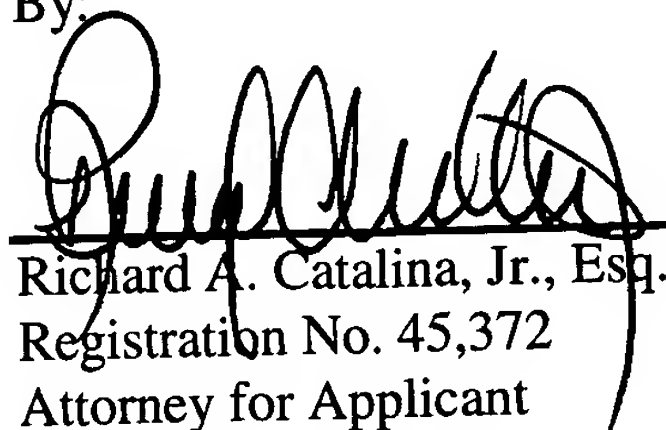
The Applicant further requests, if the Examiner agrees with the Applicant's contentions as contained in this paper, that the Examiner delete the following statement from the Examiner's Statement of Reasons for Allowance:

When the user rotates the blade to sharpen the other side of the blade, the minimum angle of rotation must be at least 180 degrees. [Page 4 of the Detailed Action]

The Examiner is invited to contact the undersigned at (732) 380-0080 to discuss any matter concerning this paper.

Respectfully submitted,
Ronald F. Swartz

By:


Richard A. Catalina, Jr., Esq.
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Date: March 29, 2006

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